

**FILED**

**NOV 15 2005**

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U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**ANTHONY TREVINO,**

Petitioner - Appellant,

v.

**K. W. PRUNTY, Warden,**

Respondent - Appellee.

No. 04-56287

D.C. No. CV-94-01913-IEG

**ORDER**

Before: **REINHARDT, KOZINSKI**, and **BERZON**, Circuit Judges.

The petition for rehearing is **GRANTED**. The memorandum disposition and concurrence filed September 23, 2005, are withdrawn, and are replaced by the memorandum and concurrence, 04-56287, filed concurrently herewith. The petition for rehearing en banc is **DENIED**. See Fed. R. App. P. 35. Further petitions for rehearing and rehearing en banc will not be accepted.